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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,926	08/23/2001	Thomas Welsh	195-01	1408

7590 11/22/2002

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EXAMINER

HO, THOMAS Y

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,926

Applicant(s)

WELSH ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3, 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 18 September 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 8/19/02 fails to comply with 37 CFR 1.97(c) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

The information disclosure statement filed 8/19/02 fails to comply with 37 CFR 1.97(c) because it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlack USPN5201557 in view of Tedesco USPN4858970.

As to claim 3, Schlack discloses a slide fastener wherein:

- The first path is linear.

As to claim 5, Schlack fails to disclose or suggest:

- The second path is linear.

Tedesco discloses a low profile latch with a pawl that travels along a first and a second path, with both paths being linear to permit a significantly longer travel for the curved end of the pawl 28 (col.2, ln.1-10; col.5, ln.29-39; col.6, ln.14-19). It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to modify the pawl disclosed by Schlack to have a second linear path of travel, as taught by Tedesco, to provide the pawl with a longer travel.

As to claim 6 Schlack discloses a slide fastener further comprising:

- A carriage 80.
- The carriage 80 being mounted for linear motion within the housing 22.
- The pawl 96 being mounted within the carriage 80.

As to claim 7, Schlack discloses a slide fastener further comprising:

- Connection means 92 for rotatably connecting the lever handle 50 and the pawl 96.

As to claim 8, Schlack discloses a slide fastener comprising:

- A housing 22.
- A lever handle 50 rotatable by an operator between a first position (extended from housing 22) and a second position (inside housing 22).
- The lever handle 50 being mounted in the housing 22.
- A pawl 96 mounted for substantially linear motion.
- The pawl 96 being actuated by rotation of the lever handle 50 and traveling substantially linearly between an open position to a closed position as the lever handle 50 is rotated between the first position to second position.
- The pawl 96 is mounted to travel between the open position along a first path and an intermediate position.

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Schlack fails to disclose or suggest:

- The pawl is mounted to travel in a second path in a direction substantially perpendicular to the first path between the intermediate position and the closed position.

Tedesco discloses a latch wherein a pawl 28 is mounted to travel in a between the open position (fig.8) along an first path and an intermediate position (fig.7), and also to travel in a second path in a direction substantially perpendicular to the first path (fig.6 to fig.5) between the intermediate position (fig.7) and the closed position (fig.4), to permit the pawl 28 to have significantly longer travel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pawl disclosed by Schlack to have a second path of travel, as taught by Tedesco, to permit the pawl to have longer travel.

Response to Arguments

Applicant's arguments filed 9/18/02 have been fully considered but they are not persuasive.

In response to applicant's argument (pg.8) that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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In response to applicant's argument that "...Schlack's slide fastener is not susceptible to the modification suggested by the Examiner...", it should be noted that the latch disclosed by Tedesco does not have to be bodily incorporated into the slide fastener disclosed by Schlack, and the Tedesco latch is not a teaching to replace parts. The slide fastener disclosed by Schlack does in fact have a first linear path, and second linear path, with both paths perpendicular to one another. It is disclosed in Schlack that the linear movement of the slide causes engagement of the slide pin sleeve 96 with leg 99, with the sleeve 96 being forced under the leg (col.5, ln.1-11). To go "under" the legs 99, the sleeves 96 must then travel a distance in a perpendicular direction to get under the legs 99. The Tedesco reference was used to teach an even greater, or more obvious, perpendicular second path to show that it is old and well known in the art to have a pawl travel in first and second perpendicular linear paths to allow for longer pawl travel.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y. Ho whose email address is thomas.ho@uspto.gov and telephone number is (703) 305-4556. The examiner can normally be reached on M-F 9:30AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

TYH
November 20, 2002



J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600